

SUPREME COURT REFUSES NEW TRIAL TO LEO FRANK

Action of State Tribunal Means His Only Appeal Now Is to United States Supreme Court.

THIS WILL BE TAKEN AT ONCE

Atlanta Man, Convicted of Murder of Fourteen-Year-Old Mary Phagan, Was Sentenced to Death, but Execution Stayed Pending Appeals.

ATLANTA, GA., November 14.—The State Supreme Court to-day refused a new trial to Leo M. Frank, convicted here on August 25, 1913, for the murder of Mary Phagan. Frank's motion for a rehearing was based on the ground that his constitutional rights had been violated by reason of his absence from the courtroom when the jury returned its verdict.

By sustaining the state's demurrer to the Frank motion to set aside the verdict of the lower court, the Supreme Court's ruling means that Frank's only appeal now is to the United States Supreme Court.

In their arguments, counsel for the accused alleged that while the jury was deliberating, "the air about the room was surcharged with mob violence," and that the trial judge had suggested Frank be absent when the verdict was rendered. The state argued that the prisoner's attorneys assented to the trial judge's suggestion.

Previous to to-day's decision, Judge Benjamin H. Hill, of the Fulton County Superior Court, had twice refused to grant Frank new trials, and also had sustained the state's demurrer to the annulment motion. Appeals to the state's highest court now have resulted in the lower court's decisions being affirmed in every instance.

CONCURRED IN BY FOUR OF THE FIVE JUDGES

To-day's decision was concurred in by four of the five Supreme Court Justices. The opinion, which was written by Associate Justice Warner Hill, held that the annulment motion could, and should, have been made in a previous appeal for a new trial.

Frank, confined in the Tower here, received the news of his latest reverse with calmness. "Well, I had expected the court to be with me this time," was his only comment.

The prisoner was writing a letter when the news was brought to him. He listened to the announcement without stopping his work, and in a few minutes completed the letter and gave it to a friend who was visiting him at the time.

Commenting on the right of counsel to waive the presence of Frank in the courtroom, the court's opinion said:

"Who was better to protect the interests of the defendant, trained and expert counsel or the defendant himself? True, he had the right to conduct the trial in person, if he so desired, but the defendant had committed his case to the able and experienced counsel, who, in the exercise of their relation as attorneys for the client, waived his right to be present, and, having made one waiver, and defendant by his conduct having acquiesced in it, he should be bound by it."

"It would be trifling with the court to allow one who has been convicted of a crime, and who has made a motion for a new trial on over 100 grounds, including the statement that his counsel had waived his presence at the reception of the verdict, and have the motion heard by both the Superior and Supreme Courts, and after a denial by both courts of the motion to set aside the verdict, include matters which were, or ought to have been, included in the motion for a new trial."

The State Supreme Court will have to certify a writ of error in order to allow the case to be taken to the Federal Supreme Court through the regular channels. If deemed advisable the court has the right to refuse. No intimation has come from the court as to what course it will pursue.

LAWYERS INTERESTED

Lawyers, however, were much interested in the following paragraph of the court's opinion:

"We know of no provision in the Constitution of the United States or of this State, nor of any state, which gives to an accused person a right to disregard the rules of procedure in a State, which afford him due process of law, and demand that he shall move in his own way and be granted absolute freedom because of irregularity (if there is one) in receiving the verdict. If an accused person could make some of his points of attack on the verdict, and reserve other points known to him, which he could then have made, to be used as grounds for further attacks on the verdict, there would be practically no end to a criminal case."

Attorneys for Frank to-night declined to discuss what course would be followed should the State Supreme Court refuse to certify a writ of error. It was reported, however, that, should the court take such action, the defendant's counsel were considering action to obtain a writ of habeas corpus in the Federal District Court, and on the trial attempt to make the case to the Supreme Court of the United States.

The dead body of Mary Phagan was found April 27, 1913, in the basement of a pencil factory in which she was employed.

played. Two days later Frank was arrested, and on May 8 the coroner's jury ordered him held for the action of the grand jury.

On May 24 James Conley, a negro avowed confession as accessory after the fact of the murder, accusing Frank as the principal. Conley now is serving twelve months on the chain gang for his part in the crime.

After his conviction, Frank was sentenced to be hanged on October 10, 1913, but execution of the sentence was stayed by the filing on that date of a motion for a new trial. That motion was overruled by the State Supreme Court, February 17, 1914, and Frank was resented. However, on April 16, another motion for a new trial was filed, and again execution was stayed.

That motion was overruled by the Supreme Court, but, before that decision was announced, the motion to set aside the verdict on grounds of a violation of constitutional rights of the accused was made.

ATTEMPT TO STEAL CAR

Young Men Jump From Stolen Automobile When Pursued.

G. W. Reams, of 1223 Bainbridge Street, left his motor car standing in front of the home of W. A. Phelps, 212 Stuart Avenue, Friday night, while he went in to make a call. Ten minutes later he recognized the whir of his engine, and rushed out to see the car starting up the street with two young men in the front seat. He gave chase, and by a fortunate circumstance the runaway was blocked by a trolley at Robinson Street before they had fairly gained headway. Seeing that they were pursued, they jumped from the car and ran. A half hour later a second attempt was made to steal the same car by unknown parties, who were unsuccessful in starting the engine. The owner had taken the precaution of removing the spark plug.

WILL GIVE PART OF DAY'S PROCEEDS TO AID OF NEEDY

St. Ann's Benevolent Society to Disburse Charity Fund Raised by Weisberger Store.

An appeal to all classes to aid in the work of relieving want and suffering among the poor and destitute of the city is being made by members of St. Ann's Benevolent Society. Now, when many Richmond people are contributing to the relief of the European war sufferers, they are urged to remember that there are those at home who are also in need of immediate assistance.

Ten per cent of the receipts from all sales made at Weisberger's Department Store, 312-318 East Broad Street, Tuesday, November 24, will be given over to St. Ann's Benevolent Society to be used in furthering charitable work. Women of the society have been requested by the head of the department store, 312-318 East Broad Street, that date, and they are now busy familiarizing themselves with the stock of goods on hand at the establishment.

Members of the society are entering upon their work with great enthusiasm, and with a determination to get the greatest possible results. Joseph LeMasurier has been unanimously elected by the society to disburse charity.

Funds which are raised for charitable purposes by St. Ann's Benevolent Society are dispensed to worthy persons, regardless of religious creed or belief. The women of the society are appealing to all of their friends to make large purchases at Weisberger's on the day specified to aid in a worthy cause.

SPUTTERING BOMB FOUND IN TOMBS COURTROOM

Contains Explosive Enough, It Is Estimated, to Have Wrecked Building.

ITS FUSE IS PARTLY BURNED

Missile Located by Policeman Just Under Offices Occupied by Governor-Elect Whitman—Magistrate Has No Idea of Perpetrator.

NEW YORK, November 14.—A bomb, somewhat similar in construction to the one that wrecked the entrance to the Bronx County Courthouse last Wednesday night, was found to-day in the Tombs courtroom just under the district attorney's offices, occupied by Governor-Elect Whitman. The room was crowded. The bomb contained gunpowder, slugs and bullets. Its fuse was partly burned.

George L. O'Connor, a policeman, saw some smoke from the burning fuse of the bomb, ran to the spot, picked up the missile, tore off the fuse and carried the bomb from the courtroom. Four men were sitting on the bench in the rear of the courtroom where the bomb was found.

The bomb contained explosive enough, it was estimated, to have wrecked the building. As O'Connor stripped the sputtering fuse from the bomb the courtroom was thrown into an uproar. Approximately fifty persons were in the room awaiting the arrival of Magistrate Campbell to open court. It is believed that his arrival was the signal to fire the bomb. Examination showed that the bomb

was made of a five-pound oil can, and that it was filled with gunpowder, slugs and bullets. It was wrapped up in a Jewish daily newspaper tightly bound with wrapping cord.

Magistrate Campbell said that he had no idea who would seek his life, unless it were the writer or writers of threatening letters he had received during the recent trial of Industrial Workers of the World leaders, at which he presided. The police believed that the bomb was left in the courtroom by the same band of anarchists that fired the bomb on Wednesday night at the Bronx County Courthouse, and last month exploded bombs in St. Patrick's Cathedral and at the Church of St. Alphonsus. The police recalled that Frank Tannenbaum and his Industrial Workers of the World entered St. Alphonsus Church during their demonstrations last year, as a result of which Tannenbaum was sent to jail. The discovery in the wreckage of the Bronx County Courthouse of pamphlets printed in Spanish, extolling the Chicago "martys," led to the belief that that bomb was set off in revenge for the execution of the Haymarket anarchists.

LOUIS E. MYERS ARRESTED

Charged With Refusing to Pay Fare on Street Car.

Louis E. Myers, former manager of the Empire Theatre and well-known in local theatrical circles, was yesterday morning arrested on a charge of refusing to pay his fare on Broad and Twenty-Fifth Street car No. 520. He was held at the Second Precinct Station, his appearance in the Police Court to-morrow morning.

Myers was arrested on a warrant and police were unable to tell of the circumstances which led to his arrest. He could not be located last night and no statement was obtained from him. At the dispatcher's office of the telephone it was said that the conductor's report charged Myers with being disorderly on the car and that no mention was made of his refusing to pay his fare.

JONAS MARCUSE DIES AFTER BRIEF ILLNESS

Was Formerly One of the Best Known Merchants of Richmond.

FOUNDED GREAT FACTORY

Retired From Active Business Several Years Ago—Was Oldest Member of Beth Abahab Synagogue and of Jefferson Club.

Jonas Marcuse, one of the oldest and most widely known residents of Richmond, died at Stuart Circle Hospital yesterday afternoon at 5:15 o'clock. Until six weeks ago Mr. Marcuse had enjoyed his usual good health, although he retired from active business several years ago. He was born in Germany January 1, 1832, and came to America when sixteen years old.

In 1852 he located in Richmond, and for many years was engaged in the mercantile business. During the Civil War he was one of the most prominent merchants in the South. He was interested in other business enterprises, and in 1890 founded the Hasker-Marcuse Manufacturing Company. He was married to Miss Rosalie Mitteldorfer in 1863.

Mr. Marcuse leaves four sons—Alexander J., Isaac J., Milton E. and Moses M.; and one daughter—Mrs. Meyer. He was the oldest member of Beth Abahab Synagogue, and the oldest member of the Jefferson Club. He was an active Mason and a member of the Royal Arcanum.

Mr. Marcuse was a man of strong character and lovable disposition. Funeral services will be conducted from Beth Abahab Synagogue to-morrow morning at 11 o'clock, and the interment will be made in the Hebrew Cemetery.

Lime-Loss and Tuberculosis

FROM the Journal of the American Medical Association (January 17, 1914) we quote the following:

"It has been many times stated that in tuberculosis or in the pre-tuberculosis stage an increased amount of calcium (lime) is lost both in the urine and feces. In fact, a demineralization has been thought to be a forerunner of the development of tuberculosis. * * *

"Forced feeding of tuberculous patients and the enormous amount of eggs and milk once given such patients are not now considered advisable by a large number of physicians who are specializing in the treatment of pulmonary tuberculosis."

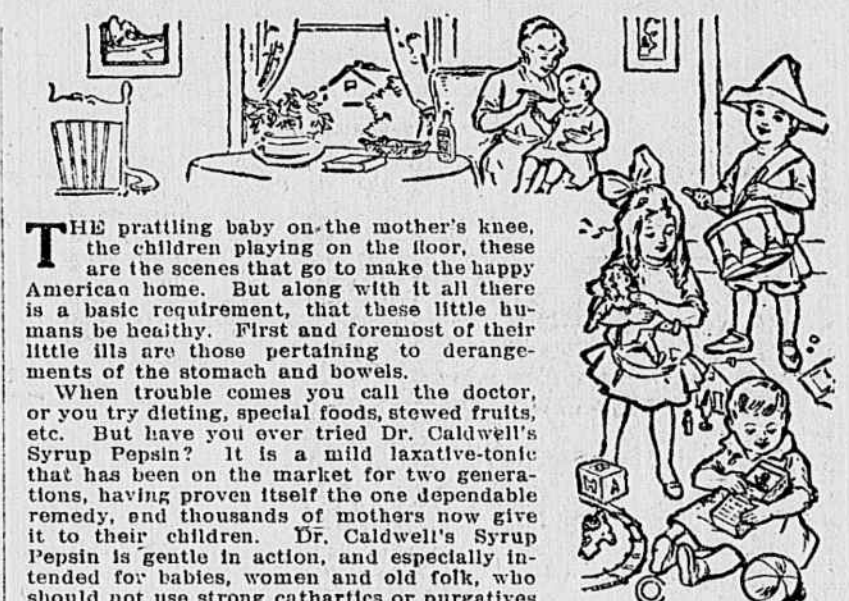
If tuberculosis is due to a loss of lime from the system, the success of Eckman's Alternative in the treatment of this disease may be due, in part, to the fact that it contains a lime salt so combined with other valuable ingredients as to be easily assimilated, and thus capable of replacing some of the loss.

Of course, in all physical affections proper diet plays an important part, and always we have urged users of Eckman's Alternative to attend strictly to matters of food and rest. The testimony of many users, however, leads us to believe that the specialists who place less reliance on feeding are justified in their position.

In addition to rest and right food, some effective remedial agent seems to be needed, and in numerous cases of apparent recovery from tuberculosis and kindred throat and bronchial affections, Eckman's Alternative has supplied this need.

It does not contain opiates, narcotics or habit-forming drugs, so it is safe to try. Your druggist has it or will order it, or you can get it from us direct.

Eckman Laboratory Philadelphia



Coupon for FREE SAMPLE

Dr. Caldwell is glad to send any of the combs a free sample bottle for personal investigation. Simply clip this coupon and enclose in an envelope with your name and address, or write your name and address plainly on a postcard and mail it to Dr. W. B. Caldwell, 67 Washington St., Monticello, Ill.

Miller & Rhoads

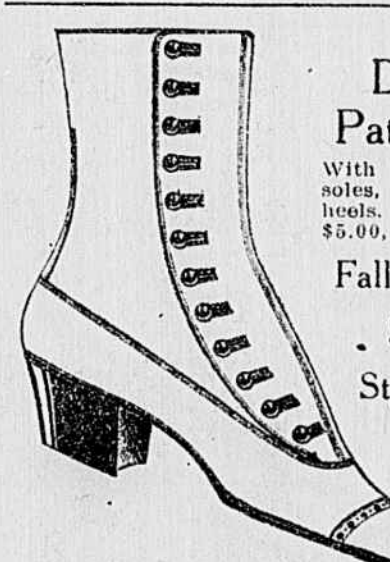
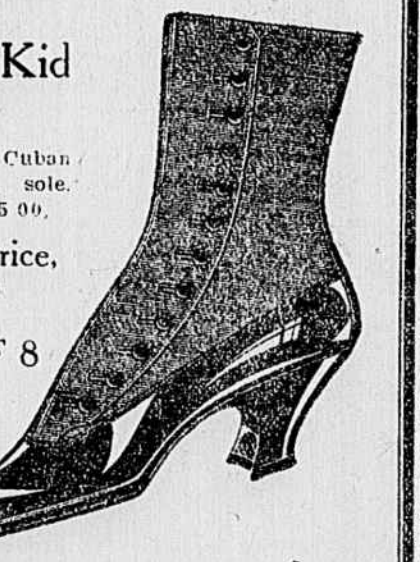
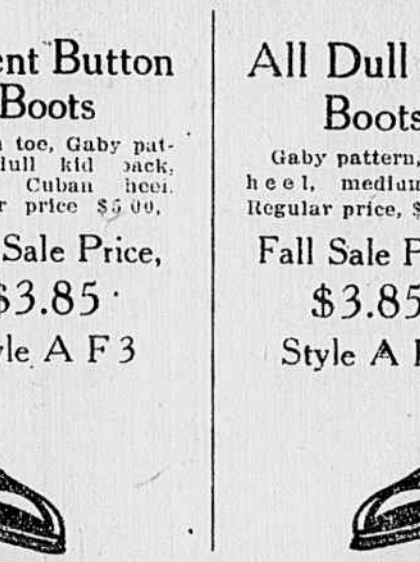
SOROSIS

Shoe Department

Mail orders will be filled. Send the number of the Sorosis Shoe wanted, together with your size and width, and there will be no trouble.

Come to Miller & Rhoads the Sorosis Shoe Dept. as early as possible. We want all of you to share in these remarkable November sale offerings.

We announce the arrival of four very smart New Fall Boots for Monday selling. They are models suitable for street and dress wear, and have all the lines and grace which give beauty to the contour of the feet and comfort to the wearer. In all our shoe experience we have never seen better values in Women's Footwear.



SPECIAL NOTICE.—This sale will also include many lines of Sorosis Shoes made for the European trade, but which the manufacturers were unable to ship on account of the war. All to be sold way below their regular price.

Miller & Rhoads

Next Week Is

Juvenile Week



No Arrangement of Displays and Sales is Complete Without Special Events for "Little-Folks"

To-morrow we inaugurate JUVENILE WEEK. The displays in the show windows and in the departments will tell the story of how well we have prepared for the babies, the kiddies, the little men and women, and all the different periods of childhood from cradle needs to the first dancing frocks.

AN INTERESTING SET OF SIX AMUSING JUVENILE BOOKLETS FREE TO EVERY CUSTOMER IN THE INFANTS' WEAR DEPARTMENT DURING JUVENILE WEEK.



Six Booklets Free

The titles of this set of Juvenile Booklets are:—
Merry Little Men.
Naughty Little Woman's Clubs.
Sledding.
Kiddies of All Nations.
The Pushmobile Boys.
Captain Weary at the North Pole.



Baby's White Coats

We have these dainty wraps for the infant in a large variety of styles, from the Bedford Cord Coats, with braid trimmings, at \$1.50, up to the hand-embroidered Silk Coats, with the soft silk lining, at \$15.00.

\$2.50 buys a neat White Bedford Cord Coat, with scalloped cape. These come in long or short lengths.

\$5.00 will buy a beautiful all-wool Batiste Coat, with silk braid trimmings.

\$7.50 is the price of a fine Henrietta Coat, with hand-scarfed and embroidered, silk-lined cape. The little cuffs are hand-scarfed and lined with silk.

Coats for Little Folks
2 to 6 Years of Age.

Chinchilla Coats, in gray. This is a single-breasted style, suitable for boy or girl. Two pockets and stitched cuffs. . . . \$3.95

All-Wool Flannel Coat, with velvet collar. Double-breasted style. Hunting red or navy. Nicely lined. . . . \$3.00

Child's Cape Coat, of navy serge, with red or Copenhagen trimmings. Silk braid on collar and cape. The cape and cuffs are lined with silk messaline. . . . \$10.00

Mantish Coats for the little men 2 to 3 years old. These come in bottle green, navy or Copenhagen. Double-breasted. 2 pockets, smocked pearl buttons; very nifty. \$7.50

Sweaters for Boy Scouts and Campfire Girls

Regulation Sweaters of the military effect with shoulder straps, high military collar, 4 pockets and close-fitting cuffs. These come in tan, navy and red. Sizes 28 to 32. \$1.98 Each.

Girls' Sweaters

Soft, all-wool Sweaters in the leading shades, such as rose, cardinal, Copenhagen, white and tan. Some straight coat style, with pockets; others fancy knit with detachable belt. . . . \$2.75 to \$3.25

Children's & Misses' Party Dresses

We make a specialty of these in dainty white materials, with lace, embroidery and ribbon trimmings. \$5.00 to \$10.00.

Chiffon and Lace Dresses for misses . . . \$18.00 and \$23.50

Warm Sweaters for the Kiddies

Our soft, warm, darling little Sweater Coats and Sweater Sacks for the Kiddies are a delight to every mother. We mention only a few of the many charming numbers—

\$1.25 will buy a charming Sweater Sack for the tiny baby.

\$1.50 buys a strictly all-wool Sweater, with a military collar and 2 pockets. These are for the babies and are in white, with dainty pink or blue trimmings.

\$2.00 buys a Child's Sweater of white, trimmed with pink or blue borders. Norfolk effect. Very attractive.

\$1.50 will buy a Boys' Norfolk Sweater, with detached belt. Pink and white or blue and white.

\$3.00 is the price of a fine Coat Sweater of very soft, fine wool. Turn-over cuffs, pockets and a rolling collar edged with Copenhagen blue, make this a fetching garment.

\$3.50 is the modest price we ask for a full Sweater Suit for the kiddie. This cute suit consists of leggings, cap and sweater, and comes in Copenhagen, white and red.

Mitts, Toboggans, Leggings, Sacks, Booties and Carriage Robes at all prices.

Juvenile Dresses
Prettily made Dresses of gingham, percale or chambray. \$1.00, \$1.50 and up to \$5.00.

A special lot of Little Children's Dresses, 2 to 6 years, are on sale at 89c each.

Bath Robes

We are showing several lines of pretty Bath Robes for infants, little folks and larger children, all the wanted colors, such as navy, Copenhagen, red, pink and blue. The prices range from \$1.25 to \$3.25.

Rompers, Creepers

We have an unusually large line of these easy fitting garments. We are showing an unusually good one, with high neck and long sleeves, in checks, solid color or white, at 50c each.

Infants' Carriage Robes

Infants' Carriage Robes, with warm enveloping robe to match, in elderdown, silk crepe or wool. These are new ideas. \$2.25 to \$4.50 each.

Diamonds Pearls Cameos

Our stock is not the largest in the world, but large enough.

Our prices make dealing with us a big object to you.

SCHEER & SON
Old Reliable Jewelers,
Established 1887,
1411 East Main Street.